

REMARKS

The Amendments

Claim 1 is amended to specify the nature of the pearlescent pigment. Support for this amendment and for new dependent claims 14 and 15 is found in the specification at page 4, lines 2-17, for example. The claims are also amended to make non-substantive clarifications. Claim 13 is canceled to address the objection thereto.

To the extent that the amendments avoid the prior art or for other reasons related to patentability, competitors are warned that the amendments are not intended to and do not limit the scope of equivalents which may be asserted on subject matter outside the literal scope of any patented claims but not anticipated or rendered obvious by the prior art or otherwise unpatentable to applicants. Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The Claim Objection

The objection to claim 13 is rendered moot by its cancellation.

The Obviousness-type Double Patenting Rejections

The obviousness-type double patenting rejections over U.S. Patent Nos. 6,545,065 and 6,294,010 are respectfully traversed. The reasons provided below for why Solms (U.S. Patent No. 6,545,065) and Pfaff (U.S. Patent No. 6,294,010) fail to anticipate or render obvious the current claims apply equally in traversing the double patenting rejections. Those arguments are incorporated herein by reference. If the disclosures as a whole of these patents do not anticipate or render obvious the claims, then the claims of these patents cannot overlap or include obvious variants of the instant claims, i.e., the claims of the patents are limited to what is described in the patents. Thus, these rejections should be withdrawn.

The Rejections over Solms

The rejections of the claims under 35 U.S.C. §102, as anticipated, or under 35 U.S.C.

§103, as obvious over Solms (WO 98/03583; U.S. Patent No. 6,545,065) are respectfully traversed.

Solms generically recites a pigment having “a mixture of pearl luster pigments and/or non-lustrous metal oxide-coated mica pigments and inorganic platelet-form substrates.” Despite the use of the “and/or” term as possibly generically encompassing mixtures with both pearl luster pigments and/or non-lustrous metal oxide-coated mica pigments, there is no explicit or direct disclosure of any pigment having such a combination. For example, in the 8 examples of the patent, the compositions contain, together with the Iridion LS 800 uncoated mica, either an Iridion pearlescent pigment or an Iridion LS 810 non-lustrous coated mica pigment. But they never contain both such types of pigments. There is no specific disclosure of a composition containing both a pearl luster pigment and a non-lustrous metal oxide-coated mica pigment. In the absence of any specific disclosure thereof, there can be no anticipation of the instant claims. As made clear in In re Kollman 201 USPQ 193 (CCPA 1979), a mere broad generic disclosure without any specific direction as to the specific element necessary to provide an anticipation is not an anticipatory disclosure. In other words, such a broad generic disclosure does not “describe” an embodiment therein in accordance with 35 U.S.C. § 102. For example, if such a reference were anticipatory, it would not be possible to prove nonobviousness for selection inventions within a generic disclosure. Such is not the state of the law. Thus, there is no anticipation and the rejection under 35 U.S.C. §102 should be withdrawn at least for this reason.

It is further urged that Solms fails to anticipate or render the claimed invention obvious to one of ordinary skill in the art because Solms requires that its laser-markable plastic contain at least one inorganic platelet-form substrate material. It is clear from Solms that this term is directed to an uncoated inorganic platelet material which provides laser absorption, since it refers to the material as merely a substrate and all examples are only uncoated substrates (see, e.g., col. 2, lines 47-53). Thus, Solms fails to disclose or suggest a plastic pigmented with "a laser absorbing pigment mixture, said mixture consisting of a pearlescent pigment in combination with a laser-sensitive pigment" (emphasis added). The pearlescent pigment and the laser-sensitive pigment in applicants' claims are defined in the claims as coated pigment materials. Since the laser absorbing pigment mixture "consists of" these components, it excludes laser-markable plastics which have a laser absorbing

pigment which is an uncoated pigment. Thus, the claim compositions exclude the compositions of Solms which require an uncoated inorganic substrate material as absorber pigment. Accordingly, Solms also does not suggest the compositions of the claimed invention because there is no motivation to one of ordinary skill in the art to modify the Solms compositions to arrive at applicants' invention. Modification of Solms to arrive at applicants invention would require removing from Solms the only component that is absolutely required by Solms. This would clearly be contrary to the objectives of Solms and thus there is clearly no motivation for such a modification.

Furthermore, despite its merely generic disclosure, Solms also fails to disclose or suggest the advantages of the combination pigments discovered by applicants. Since Solms discloses these components as alternatives, instead of required together, it obviously fails to recognize any particular advantage in the combination. For example, the reference fails to disclose or suggest the advantageous laser marking ability in transparent or translucent plastics discovered by applicants in such combination; see, e.g., page 3, lines 1-25, of the instant specification. For this additional reason, the nonobviousness of applicants' invention is supported.

For all of the above reasons, it is urged that the rejection under 35 U.S.C. §102 and 35 U.S.C. §103 over Solms be withdrawn.

The Rejections over Pfaff

The rejections of the claims under 35 U.S.C. §102, as anticipated, or under 35 U.S.C. §103, as obvious over Pfaff (U.S. Patent No. 6,294,010) are respectfully traversed.

Pfaff discloses pigment mixtures which require a component A being Al_2O_3 flakes coated with one or more metals, metal oxides or metal sulfides and a component B being a functional pigment. The functional pigments include, among others, laser-markable pigments, however, the patent discusses only the use of conductive pigments as the functional pigments. No specific teachings or examples are provided of any laser-markable pigment.

Pfaff fails to provide any specific disclosure of a plastic composition containing a laser absorbing pigment mixture "consisting of a pearlescent pigment in combination with a laser-sensitive pigment, wherein the pearlescent pigment comprises a phyllosilicate substrate having

one or more layers of metal oxide thereon, and wherein the laser-sensitive pigment is composed of mica coated with one or more metal oxides." There is no disclosure in Pfaff of a "laser-sensitive pigment [which] is composed of mica coated with one or more metal oxides." Since Pfaff discloses no particular laser-markable pigments, it cannot provide an anticipatory disclosure of this specific laser-sensitive pigment.

Pfaff also is distinct from the instant claims because it requires a pigment of Al_2O_3 flakes coated with one or more metals. Since applicants' claims require that the laser absorbing pigment mixture "consist of" the pearlescent pigment which comprises a phyllosilicate substrate having one or more layers of metal oxide thereon, and a laser-sensitive pigment composed of mica coated with one or more metal oxides, it excludes the additional Al_2O_3 -based pigment mixtures of Pfaff. One of ordinary skill in the art would not be motivated to modify Pfaff to remove the Al_2O_3 -based pigment since this is the only specifically required component in Pfaff. Removing of this component would be directly contrary to the requirements of Pfaff and, thus, is not suggested to one of ordinary skill in the art.

Furthermore, Pfaff also fails to disclose or suggest the advantages of the combination pigments discovered by applicants. Since Pfaff provides no specific disclosure regarding any laser-markable embodiment, it obviously fails to recognize any particular advantage in the combination according to applicants' claims for providing laser-markable plastics. Applicants have found that laser-markability, such as contrast and machine readability, is enhanced by their combination of particular pigments. For example, the reference fails to disclose or suggest the advantageous laser marking ability in transparent or translucent plastics discovered by applicants in such combination; see, e.g., page 3, lines 1-25, of the instant specification. For this additional reason, the nonobviousness of applicants' invention is supported.

For all of the above reasons, it is urged that the rejections under 35 U.S.C. §102 and 35 U.S.C. §103 over Pfaff should be withdrawn.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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